

25. (new) The bag of claim 23 wherein said elongated carrying strap (492) has an adjustable length.

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ADDITIONAL FEES

Three (3) additional claims in excess of 20 have been added by this Amendment. The additional claim fee for a Small Entity is \$9.00 per claim for a total additional amount due of \$27.00. Enclosed herewith is a check in the amount of \$27.00 paying the additional claim fee.

No additional fees are deemed due herein. However, if any fees are required for any reason, please charge the same to Deposit Account No. 13-2515.

REMARKS

**Claims**

Claims 1 through 22 are pending in this Application. The allowance of Claims 1 through 17 was earlier withdrawn due to the Examiner's subsequent determination that the claim language of claims 1 through 22 were still indefinite under 37 U.S.C 112, second paragraph.

In the Office action dated April 1, 2003, the Examiner continued the rejection of claims 1-22 as still being indefinite under 37 U.S.C 112, second paragraph. In addition, the Examiner stated:

In view of the clarification of the handle structure being claimed, and further in view of the newly discovered Branco [U. S. Patent 5,735,608], the following art rejections are deemed to be in order.

### **Drawings**

The sheets of Drawing present in the Application were earlier approved by the Examiner. As such, no changes are required to the Drawings and the drawing as filed are acceptable.

### **Rejection of Claims 1 through 18, 21 and 22 Under 35 USC 112, Second Paragraph**

The Examiner rejected claims 1 through 18, 21 and 22 under 35 USC 112, second paragraph.

In order to overcome this rejection, Applicant has proceeded as follows.

With respect to independent claim 1, at line 14 and after the words "first end (92)", the phrase -- of said second strap member (64) --- has been added to definitively identify that the first end (92) is of the second strap member (90).

At line 16 and after the words "second end (79)", the phrase -- of said second strap member (64) -- has been added to definitively identify that the second end (79) is of the second strap member (90).

At lines 18 and 19, after the words "second end (79)", the phrase -- of said second strap member (64) -- has been added to definitively identify that the second end (79) is of the second strap member (64).

The above amendments to claim 1 have been made following the suggestions of the Examiner except that the element number (64) has been added to the phrase "of said second strap member" so that the phrase now reads -- of said second strap member (64)--.

With the above amendments of claim 1, the rejection of claim 1 under 35 U.S.C. 112, second paragraph has been overcome.

With respect to the rejection of claims 2 through 17 under 35 U.S.C. 112, second paragraph, since the basis for this rejection was for the same reason as claim 1, the amendments to claim 1 concurrently overcome the rejection of claims 2 through 17.

With respect to the rejection of claim 7, claim 7 has been amended to now be dependant from independent claim 1. Thus, the rejection of claim 7 under 35 U.S.C. 112, second paragraph has been overcome.

With respect to claims 9 through 17, the amendment of claim 7 concurrently overcomes the rejection of claims 9 through 17 and as such the rejection of claims 9 through 17 under 35 U.S.C. 112, second paragraph have been overcome for the same reasons set forth above with respect to claim 7.

With respect to the rejection of claim 8, claim 8, which is originally dependent from claim 1, has been amended to now be dependent on claim 7 which contains the words "at least one outer pocket". This language in claim 7 provides an antecedent basis for use of the words "said one outer pocket" as used at line 2 in claim 8. Thus, claim 7 provides an antecedent basis for the language of claim 8 thereby making claim 8 definite.

For this reason, the rejection of claim 8 under 35 U.S.C. 112, second paragraph has been overcome.

With respect to claim 18, in order to make the claim language clear with respect to the carrying handle (60), the following amendments have been made to claim 18. At line 13 the reference to "second end (68)" has been corrected by replacing the numeral "(68)" with the numeral -- (70) -- such that the reference is now to -- second end (70) --.

At line 14, the language has been made clear by deleting the words "and" and "first" and adding in place of the word "first" the words -- carrying handle (60) having a second --. In addition line 15 has been amended to delete the numeral "(64)" with the numeral -- (90) such that the phrase now reads -- said carrying handle (60) having a second strap member (90) --.

Line 16 of claim 18 has been amended to add after "first end (92)" the phrase -- of said second strap member (90) such that the reference is now definite and recites -- said first end (92)

of said second strap member (90) --.

Line 21 of claim 18 has been amended to add after the words "said second end (79)" the words -- of said strap member (90)-- such that the phrase is now definite and recites -- said second end (79) of second strap member (90) --.

Line 25 through 27 of claim 18 have been amended to make the same definite and to specifically recite that -- said second end (70) of said second strap member (90) --.

With the above amendments to claim 18, claim 18 is now definite including identifying the appropriate ends of the appropriate strap members. For these reasons, the rejection of claim 18 under 35 U.S.C. 112, second paragraph has been overcome.

With respect to the rejection of claim 21, claim 21 has been amended at line 15 and at lines 17 and 18 as suggested by the Examiner such that the phrase now reads -- of said fixed length second strap member (90) --. The use of the words "fixed length" have been added to the claim to distinguish the invention over the prior art as discussed below.

With the amendment of claim 21 as discussed above, the rejection of claim 21 under 35 U.S.C. 112, second paragraph has been overcome.

With respect to claim 22 the rejection of claim 22 as being indefinite for the same reasons as claim 21 has been overcome with respect to the amendments made to claim 21. Accordingly,

the rejection of claim 22 under 35 U.S.C. 112, second paragraph has been overcome.

For all of the above reasons, the Examiner's rejections of claims 1 through 18, 21 and 22 under 35 USC 112, second paragraph, have been overcome in that these claims are now definite and particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Rejection of Claims 1 through 22 Under 35 USC 103(a)**

The Examiner rejected claims 1 through 22 under 35 USC 103(a) based on a variety of combinations of earlier cited art newly discovered Branco, United States Patent 5,735,608.

In order to overcome these rejections, Applicant has the following comments.

Claims 1 through 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Friedler, United States Patent No. 5,839,577 in view of Branco, United States Patent No. 5,735,608.

With respect to the ball bag disclosed in Figs. 1 and 2 of Friedler, it is noted that the carrying handle is a single strap of a fixed length.

Branco discloses a bag having a carrying handle (38) as noted by the Examiner. Further, the Examiner noted that Branco's handle has a connecting member, which is in the form of a brass ring (42), and a first strap member, called a strapping material (48), which is of a fixed length.

Branco's handle also includes a second strap member (38) which includes a brass slider (44) which is attached to one end of a second strap member, which makes the second strap member adjustable in length. The second strap member of Branco's handle (38) functions to provide an adjustable length when used in a conventional manner.

This structure is clearly described in Branco at column 3, lines 38 through 44, to wit:

A handle 38 provides for the transport of bag 10. Handle 38 comprises a strap 40 looped around a brass ring 42 and secured to a brass slider 44 to provide an adjustable length in a conventional manner. One side of handle 38 is secured to sidewall 12 by stitches 46. Brass ring 42 is secured to sidewall 12 by a loop of strapping material 48 which is secured by stitches 50 to sidewall 12 [underlining added for emphasis].

Branco does not disclose, suggest or teach that the end of the second strap (38) which passes through the brass slider of (44) be rigidly connected or non-moveably attached to the second strap member itself to fix the length of the strap and to make the same not adjustable.

The present invention, the second end (70) of the first strap member (64) is rigidly connected or attached to the first strap member (64). This results in a structure that fixes the length of the first strap member and makes the same non-adjustable. As a result, both the first strap member and the second strap member have fixed lengths.

This structure functionally enables a user to pickup the ball bag of the present invention by grasping the carrying handle having two strap members which are of a fixed length thereby insuring that the length of the carrying handle will not be subject to adjustment. In Branco such an adjustment could occur inadvertently by virtue of a brass slider (44) moving and adjusting the length of the second strap. Thus, the present invention provides a secured, fixed carrying handle wherein both the first strap member and the second member are fixed in length, but yet moveable relative to each other.

Thus, claim 1 has been amended to sharply distinguish and clarify the present invention over the prior art set forth above being relied upon by the Examiner in the rejection of claims 1 through 6 under 35 U.S.C. 103(a).

Specifically, claim 1 has been amended at lines 11 and 12 by adding after the words "said second end (70)" the phrase -- being rigidly connected to said first strap member (64) and -- such that the language now recites the following structure:



said second end (70) being rigidly connected  
to said first strap member (64) and  
terminating in a connecting member (76).

This language clearly provides a structure wherein a second end of the first strap member is rigidly connected to the first strap member itself thereby fixing the length of the first strap member (64) and making the same non-adjustable. This clearly distinguishes the present invention over the carrying handle of Branco wherein the carrying handle (38) is adjustable by means of the brass slider (44) which provides for adjusting the length of the carrying strap in a conventional manner, but also inadvertently.

As such, claim 1, as amended, clearly defines a novel and unique carrying handle which has two fixed length strap members which are moveable relative to each other and which provide a secure, positive, non-adjustable carrying handle. In the prior art combination suggested by the Examiner in imposing the rejection of claims 1 through 6 as described above, the brass slider (44) can either intentionally or unintentionally adjust the length of the carrying handle. The structure claimed by claim 1 herein claims a carrying handle wherein neither of the strap members defining the carrying handle would have the length of one of the strap members inadvertently or unintentionally changed during use.

The structure disclosed and claimed herein clearly provides a ball bag having a structure which is not anticipated, disclosed or suggested by Branco alone or in combination with Friedler as suggested by the Examiner. Further, a substitution of the Branco's handle, which is a handle which extends parallel to the opening in the tote bag of Branco, it is not an equivalent handle to the invention as claimed therein for the reasons set forth above and the Branco handle does not perform the same function because the structure of the carrying handle of the present invention comprises two fixed lengths strap members which are movable to each other and which are not adjustable to each other.

For all these reasons, claim 1, as amended, overcomes the rejection under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Branco.

With respect to claims 4 and 6, as well as to all of the dependent claims 2 through 6, the dependent claims are being used to vary the scope of what is verily believed to be a patentable independent claim 1. As such, claims 2 through 6 likewise define patentable subject matter over Friedler in view of Branco for the same reasons as claim 1 as discussed above.

The Examiner rejected claims 7, 8, 10 and 12 through 14 under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Branco as applied to claim 1 and further in view of Eaton, United States Design Patent No. DES 375,626.

The undersigned and the Examiner have exchanged opinions as to the Disclosure of the so-called "exterior pocket" disclosed in Figs. 3 and 4 of Eaton.

Notwithstanding these opinions, claims 7, 8, 10 and 12 through 14 are dependant on claim 1. Claim 1 as amended is verily believed to define patentable subject matter over Friedler in view of Branco for reasons discussed above with respect to claim 1. For this reason alone, claims 7, 8, 10 and 12 through 14 define patentable subject matter over Friedler in view of Branco alone, or Friedler in view of Eaton. Further, claims 7, 8, 10 and 12 through 14 are dependant claims which are being used to vary the scope of what is verily believed to be a patentable claim 1 as amended.

For these reasons, rejection of claims 7, 8, 10 and 12 through 14 under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Branco and further in view of Eaton have been overcome.

The Examiner rejected claims 11, under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Branco as applied to claim 1 and further in view of Eaton, United States Design Patent No. DES 375,626.

Applicant is not relying upon the use of a zipper to close the pocket for patentability. Rather, claim 11 is a dependant claim which is being used to vary the scope of what is verily

believed to be a patentable claim 1 as amended.

Claim 1, as amended is verily believed to define patentable subject matter over Friedler in view of Branco for reasons discussed above with respect to claim 1. For these reasons, claim 11 defines patentable subject matter over Friedler in view of Branco alone, or Friedler in view of Eaton.

For all of the above reasons, the rejection of claim 11 under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Branco and further in view of Eaton has been overcome.

The Examiner rejected claims 15 and 16, under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Branco as applied to claim 7, and also essentially as applied to claim 1, and further in view of Eaton, United States Design Patent No. DES 375,626.

Applicant is not relying on the use of a known fastening arrangement to close the pocket for patentability. Rather, claims 15 and 16 are dependant claims which is being used to vary the scope of intervening claim 7, a dependant claim which is based on independent claim 1 which is verily believed to be a patentable claim 1 as amended.

Claim 1, as amended, is verily believed to define patentable subject matter over Friedler in view of Branco for reasons discussed above with respect to claim 1. For this reason alone, claims 15 and 16 define patentable subject matter over Friedler

in view of Branco alone, or Friedler in view of Eaton.

For these reasons, the rejection of claims 15 and 16 under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Branco and further in view of Eaton have been overcome.

The Examiner rejected claims 18, 20 and 21 under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Branco and Reddy, United States Patent No. 5,927,581.

The analysis of the teachings of Friedler and Branco as described above with respect to the remarks relating to claim 1, as amended, are hereby incorporated by reference and are equally applicable to independent claims 18 and 21 as well as claim 20.

Accordingly, claim 18 has been amended in a manner similar to the amendments made to claim 1 to sharply distinguish and clarify the present invention over the prior art set forth above being relied upon by the Examiner in the rejection of claims 18, 20 and 21 under 35 U.S.C. 103(a).

Specifically, claim 18 has been amended at line 13 by adding after the words "said second end (70)" the phrase - - being rigidly connected to said first strap member (64) for fixing the length of the first strap member and -- such that the language now recites the following structure.

said second end (70) being rigidly connected  
to said first strap member (64) for fixing  
the length of said first strap member and

terminating in a connecting member (76).

This language clearly provides a structure with a second end of the first strap member is rigidly connected to the first strap member itself thereby fixing the length of the first strap member (64). This clearly distinguishes the present invention over the carrying handle Branco wherein the carrying handle (38) is adjustable by means of the brass slider (44) which provides for adjusting the length of the carrying strap in a conventional manner and inadvertently.

Claim 21 has been similarly as in claim 18 and has been amended at line 15 and has been further amended at lines 18 and 19 to recite that "said second end (79) of said fixed length second strap member (90)" such that the references to the -- fixed length second strap member (90) --.

Claims 18 and 21, as amended, are verily believed to define patentable subject matter over Friedler in view of Branco for reasons discussed above with respect to claim 1, and also in view of Branco and Reddy.

Claim 20, an independent claim dependant on claim 18, likewise defines patentable subject matter for the reasons discussed above with respect to claim 18.

For these reasons, rejection of claims 18, 20 and 21 under 35 U.S.C. 103(a) as being unpatentable over Friedler in view of Branco and Reddy have been overcome.

The Examiner rejected claims 19 and 22 under 35 U.S.C. 103(a) as being unpatentable over the art as applied to the claims 18 and 21.

Claim 19 is a dependant claim based upon claim 18 and claim 22 is a dependant claim based on claim 21.

Applicant is not relying upon the use of two pockets for patentability. Rather, Applicant is relying upon claims 19 and 21 to vary the scope of independent claims 18 and 21, respectively which Applicant verily believes defines patentable subject matter over the art for reasons set forth above.

For these reasons, the rejections of claims 19 and 22 under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 18 and 21 have been overcome.

#### **New Claims 23 through 25**

New dependant claims 23 through 25 have been added by this Amendment. The additional claim fee for a Small Entity has been paid. Claims 23 through 25 are dependant on claim 21. Claim 23 is dependant on the bag of claim 21 and further claims a ruggedized carrier (490) having an elongated carrying strap (492) having a first end (502) and a second end (512). The first end (502) of the elongated carrying strap (492) is recited as being operatively connected to the first end (72) of the

first strap member (64). The second end (512) of the elongated carrying strap (492) is recited as being operatively coupled to the second end (78) of the first strap member (90).

An antecedent basis for this claim is set forth in the Specification at lines 9 through 30, at page 17, and in Fig. 14 of the drawing.

Claim 24 is dependant on claim 23 and recites that the elongated carrying strap (492) has a fixed length. This is shown in Figs. 30 through 32 in the drawing.

Claim 25 is dependant on claim 23 and recites that the elongated carrying strap (492) has an adjustable length.

This is shown in Fig. 14 of the drawing.

Since the new claims 23 through 25 are dependant on claim 21, claims 23 through 25 define patentable subject matter over the art for the same reasons as discussed above with respect to claim 21.

#### **Summary**

Claims 1 through 22 have been amended to overcome the rejections under 37 U.S.C. 112, second paragraph. New claims 23 through 25 have been added as a dependant claims. All of the claims 1 through 25 pending in this Application are verily believed to be definite and now particularly point out and



distinctly claim the subject matter which applicants regards as the invention.

With respect to the rejections of claims 1 through 22 over the prior art under 35 USC 103(a), the arguments set forth above by applicant clearly supports that claims 1 through 22 define patentable subject matter over the cited art including Branco and are now verily believed to define patentable subject matter.

The same argument applies to new claims 23 through 25. The Examiner is respectfully requested to issue a Notice of Allowability based on Claims 1 through 25 being allowed and to issue a formal Notice of Allowance.

If the Examiner has further objections to the claim language such that further modification to the claim language would overcome such objections of the Examiner, the Examiner is respectfully requested to call the undersigned for the purposes of conducting a phone interview so that agreement may be reached on wording acceptable to the Examiner.

Respectfully submitted,

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